

## LINCOLN/LANCASTER COUNTY PLANNING STAFF REPORT

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**P.A.S.:** Change of Zone #3378

**DATE:** September 20, 2002

**PROPOSAL:** To change the zoning on approximately twelve blocks in the "Mount Emerald" area of Near South neighborhood from R-5 and R-6 to R-2.

**LAND AREA:** 50 acres, more or less

**CONCLUSION:** This change of zone within areas designated as landmark districts two decades ago is responsive to strategies in the 2025 Comprehensive Plan for preserving single family housing in existing residential areas. The applicant has documented support for the application from more than 2/3 of the affected owners, suggesting that the rezoning reflects the expectations of a substantial majority of the property owners.

|                        |
|------------------------|
| <b>RECOMMENDATION:</b> |
|------------------------|

|           |
|-----------|
| Approval. |
|-----------|

**GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached

**LOCATION:** Generally S. 18<sup>th</sup> Street to S. 21<sup>st</sup> and 22<sup>nd</sup> Streets, from A to F Streets.

**APPLICANT:** Near South Neighborhood Association  
David Witters, NSNA Board  
1908 C Street  
Lincoln, NE 68502  
(402) 476-8932

**CONTACT:** same

**EXISTING ZONING:** R-5 Residential and R-6 Residential

**EXISTING LAND USE:** Two churches; single, two, and multiple-family dwellings; bed-and-breakfast inn (by landmark special permit)

## **SURROUNDING LAND USE AND ZONING:**

R-6 Residential uses to north and south. R-5 Residential uses to east. R-6 and R-7 Residential uses to west.

## **HISTORY:**

While portions of the area were platted as early as the 1870s, the core of the area (19<sup>th</sup>-20<sup>th</sup>, A-D Sts.) developed as an estate for the “Mount Emerald” mansion of John Fitzgerald, built in 1880. That land was subdivided in 1904 into 55 houselots and most of the area was developed as single-family housing before Lincoln’s first zoning code was adopted in 1924.

The January 1940 zoning map identifies the portion of this area east of 19<sup>th</sup> Street as Residence “A”, which permitted “dwellings for not more than two families or households living independently of each other.” No minimum area was specified. The area between 18<sup>th</sup> and 19<sup>th</sup> Streets was designated as Residence “B,” which permitted “dwellings for not more than four families or households living independently of each other” plus a caretaker’s apartment.

By 1956, the whole area of the current application was identified as “D” Multiple Dwellings, which was converted to R-6 multi-family Residential District in the 1979 Zoning Update. In 1980 an area bounded by 20<sup>th</sup> and 25<sup>th</sup> Streets, from A to E Streets, was rezoned from R-6 to R-5, at the request of the Near South Neighborhood Association.

Also in 1980, a large area of the Near South Neighborhood was listed on the National Register of Historic Places as the Mount Emerald and Capitol Additions Historic Residential District. That listing included almost all of the land within the current application, and additional properties to the north and west. That same year, Lincoln adopted its historic preservation ordinance as a new chapter of the zoning code, allowing designation of overlay landmark districts.

Mount Emerald Landmark District, generally from 18<sup>th</sup> to 20<sup>th</sup> Streets, and A to E Streets, as designated as the first Lincoln Landmark district in 1981. In 1983 three more landmark districts adjacent to Mt. Emerald were designated—Capitol Addition to the west, Clark-Leonard to the north, and Sidles-Rogers-Grainger-Walts to the east.

**COMPREHENSIVE PLAN SPECIFICATIONS:** The 2025 Comprehensive Plan designates this area as Urban Residential.

Several portions of the Comprehensive Plan address preserving historic resources and existing single family homes within the mixed housing types of older neighborhoods. These strategies are listed below from the most general in the “Community Form” Chapter to the most specific In the “Future Conditions—Residential” Chapter.

***Guiding Principles from the Comprehensive Plan Vision:***

***Quality of Life Assets***

The community continues its commitment to neighborhoods. Neighborhoods remain one of Lincoln's great strengths and their conservation is fundamental to this plan. The health of Lincoln's varied neighborhoods and districts depends on implementing appropriate and individualized policies. The Comprehensive Plan is the basis for zoning and land development decisions. It guides decisions that will maintain the quality and character of the community's established neighborhoods. (page F 15)

***Guiding Principles for the Urban Environment: Overall Form***

Preservation and renewal of historic buildings, districts, and landscapes is encouraged. Development and redevelopment should respect historical patterns, precedents, and boundaries in towns, cities and existing neighborhoods. (page F 17)

In "Future Conditions—Residential," the ***Overall Guiding Principles*** include:

One of Lincoln's most valuable community assets is the supply of good, safe, and decent single family homes that are available at very affordable costs when compared to many other communities across the country. Preservation of these homes for use by future generations will protect residential neighborhoods and allow for many households to attain the dream of home ownership. (page F 65)

Provision of the broadest range of housing options throughout the community improves the quality of life in the whole community. (page F 65)

In the same chapter, the ***Guiding Principles for Existing Neighborhoods*** include:

Preserve, protect, and promote city and county historic resources. Preserve, protect and promote the character and unique features of rural and urban neighborhoods, including their historical and architectural elements. (page F 68)

Promote the continued use of single-family dwellings and all types of buildings, to preserve the character of neighborhoods and to preserve portions of our past. (page F 68)

Preserve the mix of housing types in older neighborhoods. (page F 68)

The "Existing Neighborhood Image" on page F 68 depicts some of these principles in an exemplary illustration of a developed neighborhood. The plan illustrates and describes a mix

of housing types within the area, but separates them by blockface, explaining in the text annotating the illustration:

1. Encourage mix of compatible land uses in neighborhoods, but similar uses on same block face. Similar housing faces each other: single family faces single family, change to different use at rear of lot. (page F 69)
4. Encourage a mix of housing types, including single family, duplex, attached single family units, apartments, and elderly housing all within one area. Encourage multi-family near commercial areas. (page F 69)
5. Encourage retention of single family uses in order to maintain mix of housing. (page F 69)
6. Encourage historic preservation and the rehabilitation and maintenance of buildings. (page F 69)

Certain recommendations apply to both new and existing residential areas:

***Strategies for New & Existing Residential Areas***

Single family homes, in particular, add opportunities for owner-occupants in older neighborhoods and should be preserved. The rich stock of existing, smaller homes found throughout established areas, provide an essential opportunity for many first- time home buyers. (page F 72)

Finally, the 2025 Comprehensive Plan incorporates the following strategies:

***Strategies for Existing Residential Areas***

In existing neighborhoods adjacent to the Downtown, retain existing predominately single family blocks in order to maintain the mix of housing types. The current mix within each neighborhood provides ample housing choices. These existing neighborhoods have significantly greater populations and residential densities than the rest of the community. Significant intensification could be detrimental to the neighborhoods and be beyond infrastructure capacities. Codes and regulations which encourage changes in the current balance of housing types, should be revised to retain the existing character of the neighborhoods and to encourage maintenance of established older neighborhoods, not their extensive conversion to more intensive uses. (page F 73)

Develop and promote building codes and regulations with incentives for the rehabilitation of existing buildings in order to make it easier to restore and

reuse older buildings. Encourage reconversion of single family structures to less intensive (single family use) and/or more productive uses. (page F 73)

**ANALYSIS:**

1. The review of zoning proposals traditionally addresses the following issues (based in part on Nebraska Revised Statutes Section 15-902):
  - A. Safety from fire, flood and other dangers;**  
No apparent impact.
  - B. Promotion of the public health, safety, and general welfare;**  
This proposal does not appear to have a negative impact on the public health, safety, and welfare.
  - C. Consideration of the character of the various parts of the area, and their particular suitability for particular uses, and types of development;**  
The housing within this proposed change of zone includes a broad mix of types from single-family to multiple-family apartments. The historic character of the area was recognized by listing on the National Register of Historic Places in 1980 and designation of Landmark Districts in 1981 and 1983. Approximately 90% of the 134 principal structures in the area appear to have been built as single family homes. About 75 of the houses are in that use today, while 42 have been converted to two or more apartment units. Two buildings appear to have been constructed as duplexes and eleven buildings as apartment houses of three or more dwelling units. There are also two churches in the area, and two houses used as a "Bed & Breakfast" inn.
  - D. Conservation of property values; and**  
This change of zone would reduce the number of dwelling units permitted "by right" on a typical houselot of the area. This may diminish the value of the few undeveloped, buildable lots in the area. It is also possible that property values could be increased by this change of zone if it encourages homeownership. Existing legal uses would remain legal nonstandard or nonconforming uses if the change was implemented. Property values in the area have increased substantially since the designation of the landmark districts in 1981 and 1983, but establishing a direct causal link between those increases and the landmark designations is problematic. Increases in assessed valuation are based on purchase prices of these and comparable properties, and investments in upgrading these houses. It does appear likely that many of these individual decisions regarding purchases and investments were motivated by the historic

character of the area and the recognition and partial protection afforded by the landmark designations.

**E. Encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan.**

The 2025 Comprehensive Plan encourages preservation of historic resources and of existing single family housing. The current zoning districts of the subject area, R-5 and R-6, are described in the Zoning Code as intended to provide a “redeveloping area” of moderate to moderately high residential density. The most appropriate use of the land included in this application is preservation of the existing buildings (as indicated by the landmark district designations of 1981 and 1983) and encouragement of single-family housing, so its current zoning to encourage higher density redevelopment is inconsistent with the strategies 2025 Comprehensive Plan. The proposed zoning is more consistent with the Comprehensive Plan.

2. The area of the application consists of all of the Mount Emerald Landmark District, designated in 1981, all of the “Sidles-Rogers-Grainger-Walts (Hillsdale) District” of 1983, and small portions of the Capitol Addition and Clark-Leonard Landmark Districts of 1983. Portions of the proposed area are outside any of these Lincoln landmark districts but are within the National Register district listed in 1980, along E Street at 18<sup>th</sup> to 19<sup>th</sup> and around 21<sup>st</sup>, and at 21<sup>st</sup> and C Streets. A few lots within the current application stand outside any of the historic districts, including three lots at 21<sup>st</sup> and D Streets, two lots at 21<sup>st</sup> and C Street, and one lot at 21<sup>st</sup> and B Street. These lots appear to be included to simplify the boundaries of the application.
3. A major difference between the existing zoning districts (R-5 and R-6) and the proposed district (R-2) is that the former allow multi-family housing while the residential uses allowed in the latter consist of single-family dwellings and duplexes. The second major difference is in the size of lots required for various uses. R-2 requires 6,000 square feet for single family dwellings and 5,000 square feet per family for duplexes, while R-5's requirements are 5,000 square feet for single family and 2,500 per family for duplexes. In R-6, the size requirement drops to 4,000 square feet for single family homes and 2,500 per family for duplexes.
4. All of the proposed area is platted. The typical lot size is 50'x142' (7100 square feet), meeting the R-2 standard for single-family dwellings but not for duplexes. Duplexes in the area would become “non-standard” under the proposed zoning if they met all conditions but area. Non-standard uses may be enlarged, extented or reconstructed

if yard, height, and setback requirements are met, without special permit. Apartment uses currently meeting the R-5 or R-6 standards but not meeting the R-2 standard would become “non-conforming” but not illegal. “Non-conforming” uses may continue but buildings may be enlarged, extended, or reconstructed only under special permit.

5. 89 property owners within the area have signed petitions in support of this application. One example has been included in this report; the remainder are available in the file.
6. Letters and emails have been received in support of this application and are attached.
7. The Historic Preservation Commission was asked by the applicant to review this application. A public hearing was held on September 19, 2002. The Commission moved to :

*Recommend to Planning Commission and City Council  
affirmative action on the proposed Change of Zone as  
favorable to the continued preservation of historic structures in  
these landmark districts.*

The motion passed unanimously, Jerry Berggren, Tim Francis, Bruce Helwig, Jim McKee, Bob Ripley, and Carol Walker voting “aye.”

Prepared by:

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Edward F. Zimmer, Ph.D.  
Historic Preservation Planner

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Area of Application  
from R-5 & R-6 to R-2



**Change of Zone # 3378**  
**S. 18th & 'C' St.**



Photograph Date: 1997



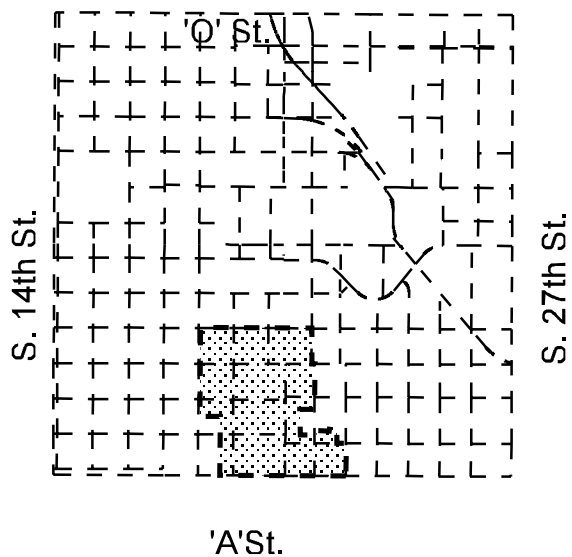
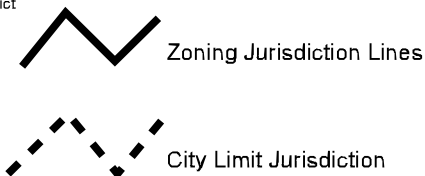


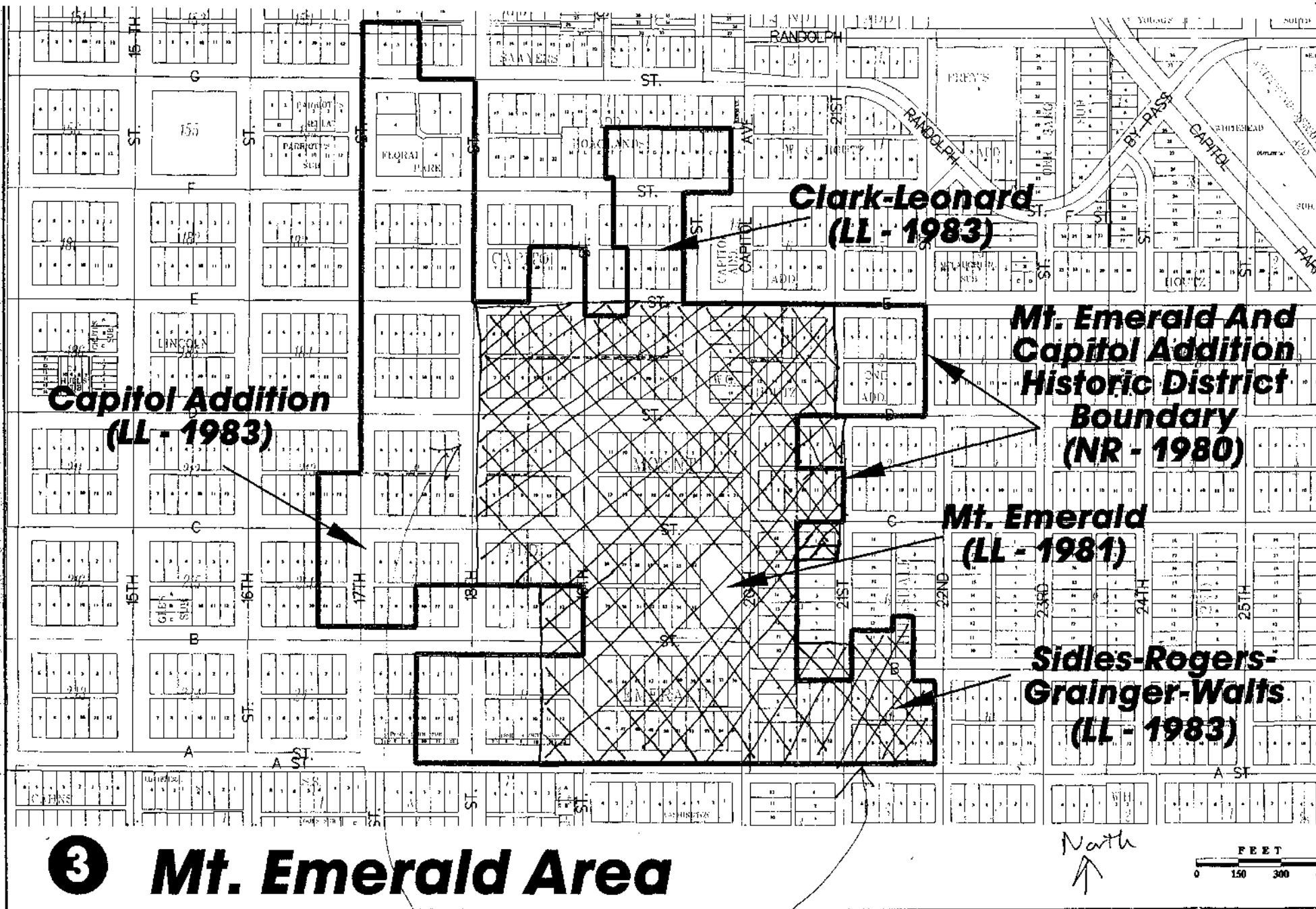
## Change of Zone # 3378 S. 18th & 'C' St.

### Zoning:

|            |  |
|------------|--|
| R-1 to R-8 | Residential District                   |
| AG         | Agricultural District                  |
| AGR        | Agricultural Residential District      |
| R-C        | Residential Conservation District      |
| O-1        | Office District                        |
| O-2        | Suburban Office District               |
| O-3        | Office Park District                   |
| R-T        | Residential Transition District        |
| B-1        | Local Business District                |
| B-2        | Planned Neighborhood Business District |
| B-3        | Commercial District                    |
| B-4        | Lincoln Center Business District       |
| B-5        | Planned Regional Business District     |
| H-1        | Interstate Commercial District         |
| H-2        | Highway Business District              |
| H-3        | Highway Commercial District            |
| H-4        | General Commercial District            |
| I-1        | Industrial District                    |
| I-2        | Industrial Park District               |
| I-3        | Employment Center District             |
| P          | Public Use District                    |

One Square Mile  
Sec. 25 T10N R6E





### 3 Mt. Emerald Area

Proposed C of Z 3378

Historic Preservation Commission  
c/o Planning Department  
555 S. 10<sup>th</sup>  
Lincoln, NE 68508



September 5, 2002

Dear Commissioners:

Please find attached our application for a change of zone concerning the Mount Emerald and Sidles-Rogers-Grainger-Walts Landmark Districts. Our desire is for these areas to be rezoned from R6 to R2.

Since 1972, Near South Neighborhood Association (NSNA) has worked to revitalize and promote our historic neighborhood and community. One of the key elements of these efforts has been to recognize significant historical aspects of our neighborhood, and educate the public about the importance of preserving our community's heritage. In 1980, Near South worked to help create the Historic Preservation Commission and statutes. Under these statutes, the City of Lincoln designated the Mount Emerald Landmark District in 1981, and the Sidles-Rogers-Grainger-Walts Landmark District in 1983.

These designations were due, in large part, to the recognition that a significant portion of the included properties retained their original appearance, even if some had been converted to apartment uses. Both districts represented a remarkable degree of intact single-family residences - a trait even more evident today. Many of the homes have been restored physically and in use. In fact, we believe that the historic districts have been a tremendous success. Declaring these areas landmark districts helped assure owners that their restoration and conservation investments would receive a level of protection, and the market responded accordingly.

In the twenty years since the landmark designation, new owners have been drawn to the Mount Emerald area in large numbers. They recognize the value and significance of these homes. They are eager to carry forth the careful stewardship of these precious community resources. The generations change, but the heritage and desire to preserve it remain. It is extremely rewarding and exciting to see the neighborhood flourish with new families, much as it must have nearly one hundred years ago.

Despite an intervening zoning designation that prescribed high intensity multi-family use for this area, the Mount Emerald and Sidles-Rogers-Grainger-Walts Landmark Districts exist today as predominantly single-family residences. We believe that the current R6 zoning does not accurately describe the current characteristic nor prescribe any desirable future characteristic for these historic districts. NSNA believes that it better serves the homeowners and the community to align the zoning with the area's predominant use by rezoning these districts to R2. It preserves our community heritage. It rewards and protects individual investment. It is good public policy.

Thank you for your thoughtful consideration in this matter. NSNA remains eager and willing to discuss this change, and answer any questions.

Sincerely,

David Witters

NSNA Board

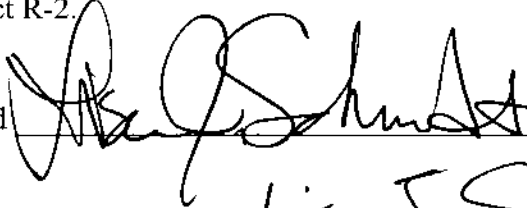
## Historic Neighborhood Change of Zone Petition

|                  |                               |  |  |
|------------------|-------------------------------|--|--|
| Parcel ID:       | 10-25-427-009-000             |  |  |
| Owner Name:      | SCHMIDT, LISA J               |  |  |
| Owner Address:   | 1515 S 22 ST LINCOLN NE 68502 |  |  |
| Situs Address:   | 2100 B ST LINCOLN             |  |  |
| Taxing District: | 0001 LINCOLN                  |  |  |
| Property Class:  | CV URBAN HOUSE CONVERT/APTS   |  |  |

|   |
|---|
| Legal Description:                      |
| HILLSDALE ADD BLOCK 6 W90' LOTS 10 & 11 |

I support changing the zoning of my property from Residential District R-6 to Residential District R-2.

Signed



Date

11 JUN 02

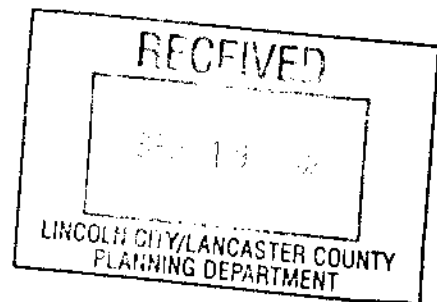
Printed Name

Lisa J. Schmidt

1425 So 22<sup>nd</sup> St  
Lincoln NE 68502

Members of the Lincoln-Lancaster County  
Planning Commission.

555 So 10<sup>th</sup> St.  
Lincoln NE 68508



Dear Planning Commissioners,

Please support the proposal to  
downzone the Mount Emerald historic  
district and environs.

As a member of the Near South Neighborhood  
Assn., I can testify to the value of this  
initiative for us but it is truly a  
benefit for the city as a whole.

Yours truly,

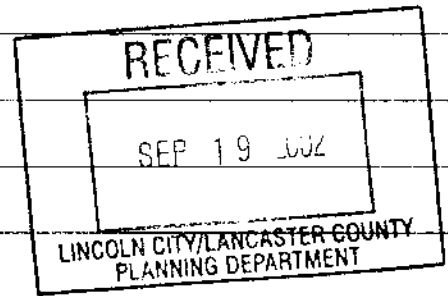
Kathleen Hahn

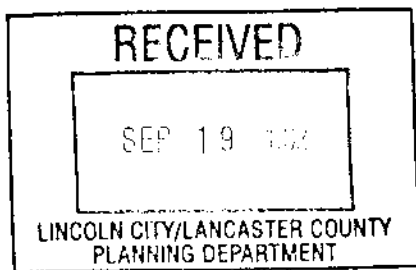
9-12-02

Dear Planning Commission

I am writing for your support  
of the Mount Emerald Downzoning. I hope  
~~I~~ can count on your vote.

William Carver (Lincoln resident since 1971, at current  
2202 Washington St address since 1994)  
Lincoln NE 68502  
H 477-8325 W 475-3928





September 12, 2002

Dear Planning Commission Members:

My name is David Witters. I live at 1908 e Street, and have lived in Lincoln for 35 years. I would very much appreciate your support for the Mount Emerald downzoning initiative. I think this is a great way to preserve this neighborhood. Please vote for this initiative.

Thank you

David Witters



"Phil, Cindy, Chris, Liz  
Porter"

<noplace@navix.net>

09/17/2002 06:43 AM

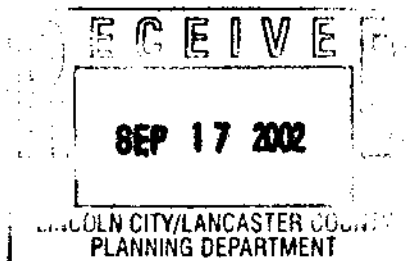
To: plan@ci.lincoln.ne.us

cc:

Subject: Vote YES on change of zone #3378.

We urge your support of this rezoning. Every city needsto have a heart. These older neighborhoods are the heart of Lincoln. Dense zoning erodes the character, and causes the neighborhood to become run down by absentee ownership. We have invested a lot on our 1913 house. Please help us protect it. You can see the difference when you drive down the street where it's been turned into apartments, it looks on the verge of abandonment.

Thanks  
Phil Porter  
& family  
2009 S. 24th St.  
Near South, Ne.







pstruwe@unlnotes01.  
unl.edu

09/17/2002 10:24 AM

To: plan@ci.lincoln.ne.us  
cc:  
Subject: Change of Zone #3378

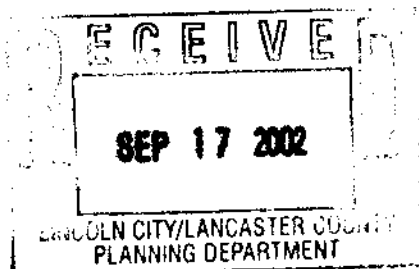
Please vote yes on change of zone #3378.  
I urge your support of this rezoning.  
Please vote yes to protect our homes and neighborhood.

I strongly support this change.

I don't live in this area, but I do live in the Hawley Historic Landmark District. I also own an apartment house in the Hawley Historic Landmark District. I too would welcome a lowering of zoning from R6 to R2 or R3. If anything happened to my rental property, I would welcome the chance to replace it with a single family home that would fit with the neighborhood.

I am committed to the older homes and neighborhoods. The money invested in the older homes to bring them up to current day standards is extensive. Please protect the investment we old home owners are making in our homes. This is not a business to us, but our lives, community and neighborhood.

Peggy Struwe  
530 North 25th Street  
Lincoln, NE 68503





Jean L Walker

09/18/02 07:34 AM

To: "The McCowns" <gmccown@neb.rr.com>  
cc: Ray F Hill/Notes@Notes, Marvin S Krout/Notes@Notes, Edward  
Zimmer/Notes@Notes  
Subject: Re: Re-zoning

Thank you for your comments. A copy will be distributed to the Planning Commission prior to the public hearing, which is tentatively scheduled for October 2, 2002.

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365

"The McCowns" <gmccown@neb.rr.com>



"The McCowns"  
<gmccown@neb.rr.co  
m>

To: <plan@ci.lincoln.ne.us>  
cc:  
Subject: Re-zoning

09/17/2002 09:22 PM

Lincoln-Lancaster County Planning Department,  
555 S. 10th Street, Room 213  
Lincoln, NE 68508  
(402) 441-6360

Dear Planning Department,

This is in regards to the change of zone #3378 for Mount Emerald and Sidles-Grainger-Rogers-Walts Landmark districts. I feel that the current R-6 zoning is not only inappropriate for the neighborhood but encourages further erosion of our historic homes.

My name is Greg McCown. My wife Wendy and I have lived with our three children at 1812 D Street for over eight years. We purchased our house as a duplex conversion and lived in the first floor apartment until we were financially able to take over the entire house and deconvert it to its former glory. We have always appreciated the Near South neighborhood as having the character and history that we enjoy living in. That is why we feel Lincoln has an important decision to make regarding the future of our history.

Lincoln, as a city, has taken pride in the integrity of its residential areas, especially those neighborhoods that document our living history. Allowing R-6 zoning to exist in these areas creates an environment attractive to outside investors. This in turn increases the density and eventually forces out the existing owner-occupied homes. These historic homes should and can be preserved by simply re-visiting these zoning issues.

As new home prices increase dramatically, and as Lincoln's expansion becomes more expensive for the city, people are looking into these historic

areas. Families are finding the size they need by restoring these large homes, many times even de-converting multi-units back to single family occupancy. The market for these rehabilitated homes is very good, but in order for that market to remain attractive, we must decide now to create an environment that encourages families once again.

Unfortunately our historic neighborhoods are barely holding a balance between owner-occupieds and investor properties. Any action or non-action could easily upset this balance. My hope is that we tip the scales toward saving Lincoln's history; for the future of our city is nothing without its past to reflect and build on.

I ask that you pass the change of zone #3378. Thank you for your attention to this.


Sincerely,

Greg & Wendy McCown



**Jean L Walker**

09/23/02 07:35 AM

To: echase@alltel.net  
cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes, Edward Zimmer/Notes@Notes  
Subject: Re: change of zone #3378 

Thank you for your comments. A copy will be distributed to the Planning Commission prior to the public hearing, which is scheduled for October 2, 2002, 1:00 p.m.

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365  
Elizabeth Chase <echase@alltel.net>



**Elizabeth Chase**  
<echase@alltel.net>

09/21/2002 06:08 PM

Please respond to  
echase

To: plan@ci.lincoln.ne.us  
cc:  
Subject: change of zone #3378

Lincoln-Lancaster County Planning Commissioners:

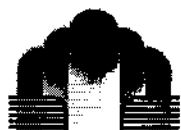
I am not a resident of the Near South neighborhood, but I am concerned with the preservation of Lincoln's most prominent and historic neighborhood area.

I urge you to vote YES on the change of zone #3378.

Elizabeth Chase  
4830 South Haven Drive  
Lincoln, NE 68516-1252  
(402) 489-5714




echase.vc



**Jean L Walker**

09/23/02 07:34 AM

To: "Kitty Fynbu" <misskitty@neb.rr.com>  
cc: Marvin S Krout/Notes@Notes, Ray F Hill/Notes@Notes, Edward Zimmer/Notes@Notes  
Subject: Re: 

Thank you for your comments. A copy will be distributed to the Planning Commission prior to the public hearing, which is scheduled for October 2, 2002, 1:00 p.m.

--Jean Walker, Administrative Officer  
City-County Planning Department  
441-6365  
"Kitty Fynbu" <misskitty@neb.rr.com>



**"Kitty Fynbu"**  
<misskitty@neb.rr.com>  
>

09/21/2002 10:00 AM

To: "Planning Commission" <plan@ci.lincoln.ne.us>  
cc:  
Subject:

Members of the commission-

Please vote yes on change of zone #3378. This change would be congruent with the comprehensive plan which call for retaining existing predominantly single- family blocks as single-family blocks. City officials and concerned neighbors have no leverage to do this without the zoning change. Much of this neighborhood has already received historic designation- the city should follow suit by changing the zoning to encourage investment in renovation.

Thank you-

Kitty M Fynbu

President, Irvingdale Neighborhood Association

475-0132